

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

In re:

Case No. 01-09988-8P1  
Chapter 11 Case

TERRI L. STEFFEN,

\_\_\_\_\_  
Debtor. \_\_\_\_\_/

**ORDER DENYING UNITED STATES'S  
MOTION FOR SUMMARY JUDGMENT AND  
DEBTOR'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT**  
(Doc. Nos. 310 & 311)

THE MATTERS under consideration in the above captured Chapter 11 case are two Motions for Summary Judgment, one filed by the United States (the "Government") and the other filed by Terri L. Steffen (the "Debtor"). Both Motions are directed to the Debtor's eligibility to receive a tax refund under Section 1341 of the Internal Revenue Code. By virtue of 11 U.S.C. Section 505 (a)(2)(B)(i), this Court has the jurisdiction to rule on the Debtor's eligibility to claim a tax refund under Section 1341.

The Government claims that the Debtor never had a "right to claim" to the money that was derived from the fraudulent conduct of Paul A. Bilzerian (the "Debtor's Husband"). In support of this proposition, the Government contends that the money from which the Debtor claims to be owed a refund was the gains of securities fraud for which the Debtor's Husband was indicted and convicted by the Government. In January 1993, the District Court ordered the Debtor's Husband to disgorge \$33,140,787.07 in profits from the securities fraud and in June of the same year, an additional \$29,196,812.46 in prejudgment interest. It is the Government's contention that this represents illegal profits that the Debtor's Husband received from the securities fraud. Therefore, the funds represent the fruit of a poison tree that cannot be the basis for a tax refund claim.

In opposition, the Debtor claims that she satisfies all the requirements for a tax refund under Section 1341 of the Internal Revenue Code. The Debtor

contends that she had an unrestricted right to the income and she paid taxes on it. Due to the disgorgement order by the S.E.C., the Debtor was ordered to restore the money to the Government. Therefore, the Debtor is entitled to a refund for the amount she overpaid in her taxes.

The court has reviewed the Motions, together with the record, and has determined that it is appropriate to deny both Motions inasmuch as this Court is satisfied that there are material issues of fact which preclude the granting of Summary Judgment as a matter of law. Specifically, there are material issues of fact regarding whether or not the Debtor has a "right to claim" to the income and therefore, is entitled to a refund under Section 1341 of the Internal Revenue Code.

Accordingly, it is

ORDERED, ADJUDGED AND DECREED that the United State's Motion for Summary Judgment with respect to the Debtor's Section 1341 Refund Claim be, and the same is hereby, denied. It is further

ORDERED, ADJUDGED AND DECREED that the Debtor's Motion for Partial Summary Judgment with respect to the Debtor's Section 1341 Refund Claim be, and the same is hereby, denied. It is further

ORDERED, ADJUDGED AND DECREED that a pre-trial conference shall be scheduled before the undersigned on March 22, 2005, 10:30 a .m. at the Sam M. Gibbons United States Courthouse, Courtroom 9A, 801 N. Florida Avenue, Tampa, Florida, 33602, to prepare the remaining issues for trial.

DONE AND ORDERED at Tampa, Florida, on February 04, 2005.

/s/ Alexander L. Paskay  
ALEXANDER L. PASKAY  
U.S. Bankruptcy Judge